

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

BENJAMIN CRAIG, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

v.

CENTURYLINK, INC., GLEN F. POST, III
and R. STEWART EWING JR.,

Defendants.

No. 3:17-CV-01005-SMH-JPM

CLASS ACTION

DON J. SCOTT, Individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

v.

CENTURYLINK, INC., GLEN F. POST, III,
R. STEWART EWING, JR. and DAVID D.
COLE,

Defendants.

No. 3:17-cv-01033-SMH-JPM

CLASS ACTION

Caption continued on next page.

JOINT MOTION FOR CONTINUANCE PURSUANT TO L.R. 7.9

AMARENDRA THUMMETI, Individually and
on Behalf of All Others Similarly Situated,

Plaintiff,

v.

CENTURYLINK, INC., GLEN F. POST III
and R. STEWART EWING, JR.,

Defendants.

No. 3:17-cv-1065-SMH-JPM

CLASS ACTION

Pursuant to Local Rule 7.9, Lead Plaintiff movants Oregon¹ and KBC Asset Management NV (“KBC”) respectfully move this Court for a continuance of the October 25, 2017 hearing on the pending motions for appointment as Lead Plaintiff and approval of Lead Counsel. *See* ECF No. 59.²

On July 31, 2017, Defendant CenturyLink, Inc. (“CenturyLink”) and several of its wholly-owned subsidiaries filed a motion with the Judicial Panel for Multidistrict Litigation (the “Panel”) seeking to transfer nine “virtually-identical and potentially overlapping [consumer] class actions” filed against CenturyLink to the Honorable Michael J. Davis of the U.S. District Court for the District of Minnesota. *Mem. of Law in Supp. of Mot. of CenturyLink, Inc. and Its Subsidiaries for Transfer of Actions Pursuant to 28 U.S.C. § 1407, In re: CenturyLink Residential Customer Billing Disputes Litig.*, MDL No. 2795 (J.P.M.L. July 31, 2017), ECF No. 1-1 at 1 (attached hereto as Exhibit A to the Declaration of F. Williams Sartor). Those nine consumer actions—which had been filed in district courts across the country—arise from CenturyLink’s company-wide scheme to generate revenue by misrepresenting charges and services and by improperly billing customers (the “Consumer Actions”).

On October 5, 2017, the Panel granted CenturyLink’s motion and transferred the Consumer Actions to the District of Minnesota and assigned them to Judge Michael Davis. *See* Transfer Order, *In re: CenturyLink Residential Customer Billing Disputes Litig.*, MDL No. 2795 (J.P.M.L. Oct. 5, 2017), ECF No. 60 (attached hereto as Exhibit B to the Declaration of F. Williams Sartor). The following day, the Panel signed an order conditionally transferring the above-captioned

¹ “Oregon” refers to the State of Oregon by and through the Oregon State Treasurer and the Oregon Public Employee Retirement Board, on behalf of the Oregon Public Employee Retirement Fund.

² Before filing this motion, counsel for Oregon conferred with counsel for Defendants, who indicated that Defendants do not consent to this motion.

securities class actions (the “Securities Actions”) to the District of Minnesota, noting that the Securities Actions involve questions of fact that are common to the recently centralized Consumer Actions. *See* Conditional Transfer Order (CTO-1), *In re: CenturyLink Residential Customer Billing Disputes Litig.*, MDL No. 2795 (J.P.M.L. Oct. 6, 2017), ECF No. 63 (the “Conditional Transfer Order”) (attached hereto as Exhibit C to the Declaration of F. Williams Sartor). The deadline to oppose the Conditional Transfer Order is October 13, 2017.

The Securities Actions arise from the same facts and allegations as the Consumer Actions. CenturyLink itself rightfully acknowledged that “[b]ecause the securities actions address the same predicate conduct as the consumer actions . . . [a] common court and District Judge should oversee all of these actions to maximize efficiency, prevent wasteful duplication of judicial effort, and avoid inconsistent results.”³ Oregon and KBC agree that transfer of the Securities Actions to the District of Minnesota will promote the efficient adjudication for these claims, and, for this reason, do not oppose transfer.

The Private Securities Litigation Reform Act of 1995 requires that any consolidation motions be decided before any decisions on motions to appoint a Lead Plaintiff. *See* 15 U.S.C. § 78u-4(a)(3)(B)(ii) (“The court shall not make the determination [as to Lead Plaintiff] until after the decision on the motion to consolidate is rendered.”). Courts interpret that provision to include decisions by the Panel on whether to transfer and centralize securities class actions. *See, e.g., Sevel v. AOL Time Warner, Inc.*, 232 F. Supp. 2d 615, 617 (E.D. Va. 2002) (“From the statute, the Court finds it evident that it must not determine a lead plaintiff or approve the choice of lead counsel until after the decision on the motion to consolidate before the MDL has been rendered.”).

³ *See* Reply Mem. of CenturyLink, Inc. and Its Subsidiaries in Supp. of Their Mot. for Transfer of Actions Pursuant to 28 U.S.C. § 1407, *In re: CenturyLink Residential Customer Billing Disputes Litig.*, MDL No. 2795 (J.P.M.L. Aug. 28, 2017), ECF No. 27 at 4 (attached hereto as Exhibit D to the Declaration of F. Williams Sartor).

Given the conditional transfer of the Securities Actions, Oregon and KBC respectfully request that the Court continue the October 25, 2017 hearing until the Panel decides the issue of transfer. By granting a continuance, the Court will conserve judicial resources and ensure that the arguments on Lead Plaintiff appointment will be considered by the court that will ultimately preside over the Securities Actions. *See Sevel*, 232 F. Supp. 2d at 618 (“deciding the motion to determine lead plaintiff and to approve the selection of lead counsel [before the Panel rules on transfer] is premature and would waste time, energy, and judicial resources”).

Accordingly, Lead Plaintiff movants Oregon and KBC respectfully request that the Court continue the October 25, 2017 hearing until after the Panel issues a final decision on transfer.

Dated: October 10, 2017

Respectfully submitted,

/s/ Fred Williams Sartor, Jr.

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LOCAL RULE 7.9 CERTIFICATION

Before filing this motion, counsel for Oregon conferred with counsel for Defendants, who indicated that Defendants do not consent to this motion because they intend to oppose the Conditional Transfer Order.

/s/ Fred Williams Sartor, Jr.

Fred Williams Sartor, Jr.

CERTIFICATE OF SERVICE

I hereby certify that on this day, October 10, 2017, I electronically filed the above Joint Motion for Continuance Pursuant to L.R. 7.9 using the CM/ECF system, which will automatically send email notification of such filing to all attorneys of record.

/s/ Fred Williams Sartor, Jr.

Fred Williams Sartor, Jr.